

**WAUKESHA COUNTY BOARD OF ADJUSTMENT  
SUMMARY OF MEETING**

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, September 14, 2005, at 6:30 p.m. in Room 255/259 of the Waukesha County Administration Center, 1320 Pewaukee Road, Waukesha County Wisconsin, 53188.

**BOARD MEMBERS PRESENT:** James Ward, Chairman  
Robert Bartholomew  
Paul Schultz  
Walter Tarmann  
Walter Schmidt

**BOARD MEMBERS ABSENT:** None

**SECRETARY TO THE BOARD:** Peggy S. Pelikan

**OTHERS PRESENT:** Town of Merton Board of Adjustment  
Tommie Coppinger, BA05:066, petitioner  
Scott Noles, BA05:064, petitioner  
Andy Reahm, BA05:068, petitioner  
Pat Johnson, BA05:066, neighbor  
Dennis Cira, BA05:066, neighbor  
Robert White, BA05:066, neighbor  
Sandy Jacob of Talon Builders, BA05:067, builder  
Debbie & Luke Bebeau, BA05:067, petitioners  
Dick Jorgenson, BA05:067, neighbor  
Glen Darton, BA05:067, neighbor  
John McCoy, BA05:067, neighbor

The following is a record of the motions and decisions made by the Board of Adjustment. Detailed minutes of these proceedings are not produced, however, a taped record of the meeting is kept on file in the office of the Waukesha County Department of Parks and Land Use, and a taped copy or transcript is available, at cost, upon request.

**SUMMARIES OF PREVIOUS MEETINGS:**

Mr. Bartholomew                      *I make a motion to approve the Summary of the Meeting of August 24, 2005, with the following modifications:*

- 1. The approval of the "Rules of Procedure" shall be moved to the beginning of the minutes.*
- 2. In BA05:060 Hennekens, condition #1 shall be revised to read as follows: The deck shall be no larger than 4 ft. deep and 6 ft. wide (parallel to the home) to provide access from the door on the northwest side of the home. In addition, stairs off the deck may be permitted as long as they are no closer to the wetland than the deck.*

The motion was seconded by Mr. Schultz and carried unanimously.

**NEW BUSINESS:**

**BA05:064 KELLY & SCOTT NOLES**

Mr. Tarmann *I move to deny the request as recommended in the Staff Report, for the reasons set forth in the Staff Report.*

The motion was seconded by Mr. Bartholomew and carried unanimously.

The staff's recommendation was for denial.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The petitioner can use the property for a permitted use without the necessary variance. The residence already has a two-car attached garage and the approval of the variance from the road setback requirements of the Ordinance would make the conforming structure non-conforming. The petitioners could relocate the garage addition to meet the road setback requirement or they could construct a detached garage that would adhere to the setback requirements. Therefore, it has not been demonstrated, as required for a variance, that denial of the requested variances would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The approval of this request would not be in conformance with the purpose and intent of the Ordinance.

**BA05:066 TOMMIE COPPINGER**

Mr. Schmidt *I move to deny the request as recommended in the Staff Report, for the reasons set forth in the Staff Report for the deck along the shoreline and approve the request for variances for the deck attached to the house.*

The motion was seconded by Mr. Schultz and carried unanimously.

The reasons for the decision are as follows:

The petitioner can use the property for a permitted use without the necessary variances for the deck along the shoreline. Furthermore, the petitioner would have access to the pier on the property without the need for the deck along the entire shoreline. The petitioner could apply to the Waukesha County Planning and Zoning Division and the Wisconsin Department of Natural

Resources for removal and replacement of the existing broken concrete seawall. Therefore, it has not been demonstrated, as required for a variance, that denial of the requested variances would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The approval of the request for variances for the deck along the shoreline would not be in conformance with the purpose and intent of the Ordinance.

The residence is close to both the road and the lake, and is in close proximity to commercial uses as well as the public boat launch. Therefore, due to the uniqueness of the property, the petitioner has demonstrated a hardship if she were to be forced to remove the deck that is attached to the residence. Approval of the request for variances for the deck attached to the house is in conformance with the purpose and intent of the Ordinance.

**BA05:068 ANDREW REAHM**

Mr. Schultz

*I move to deny the request for a variance from the floor area ratio requirements, but approve the request for a special exception from the accessory building floor area ratio requirements of the Ordinance in accordance with the conditions recommended in the Staff Report, for the reasons set forth in the Staff Report.*

The motion was seconded by Mr. Schmidt and carried unanimously.

The staff's recommendation was for denial of the request for a variance from the floor area ratio requirements, and approval of the request for a special exception from the accessory building floor area ratio requirements of the Ordinance, with the following conditions:

1. The total floor area ratio on the property shall not exceed 19.5%.
2. Prior to the issuance of a Zoning Permit, a stake-out survey showing the location of the proposed garage in conformance with the above conditions must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
3. The garage must contain only one story and it must conform with the height requirement of the Ordinance, i.e. the height of the garage, as measured from the lowest exposed point to the peak of the roof, must not exceed 18 ft.
4. If any changes to the existing grade are proposed, a detailed grading and drainage plan, showing existing and proposed grades and any proposed retaining walls, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a zoning permit. This is to ensure the construction of the proposed garage does not result in adverse drainage onto adjacent properties. The intent is that the property be graded according to the approved plan,

and also to provide that the drainage remain on the property and not to the neighboring properties or the road. The following information must also be submitted along with the grading and drainage plan: a timetable for completion, the source and type of fill, a complete vegetative plan including seeding mixtures and amount of topsoil and mulch, an erosion and sediment control plan, and the impact of any grading on stormwater and drainage.

5. Lots 19 and 20 must be combined by a Certified Survey Map. The Certified Survey Map will need to be approved by the Town of Delafield and the Waukesha County Planning and Zoning Division Staff, and recorded in the Waukesha County Register of Deeds office, prior to the issuance of a Zoning Permit for the detached garage.
6. The petitioners must apply for a Zoning Permit for the remodeling and/or addition to the existing residence by October 7, 2005. Detailed plans, a survey showing the location of any additions, and a detailed cost estimate must also be submitted with the application form. Variances may also be required.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The petitioner would be able to construct an approximately 526 sq. ft. detached garage (if no further additions have been made to the residence) without the need for a variance from the total floor area ratio requirements of the Ordinance. Therefore, it has not been demonstrated, as required for a variance, that denial of the requested variances would result in an unnecessary hardship. A hardship has been defined by the Wisconsin Supreme Court as a situation where compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The approval of the request for a special exception from the accessory building floor area ratio requirements of the Ordinance, with the recommended conditions, will permit the construction of a new detached garage that will be consistent with the surrounding area. The existing residence only has a one-car garage located in the basement of the structure and the proposed garage meets all of the locational requirements of the Ordinance. The approval of this request, as recommended, is not contrary to the public interest. Therefore, the approval of this request, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

**BA05:067 LUKE & DEBORAH BEBEAU**

**Steven Sindberg—Owner**

Mr. Schmidt

*I move to approve the request in accordance with the Staff Report and Recommendation with the addition of the following conditions:*

7. *The bonus room above the garage may only be accessed by pull-down stairs from the garage and shall not be accessed from the residence.*
8. *Elimination of the open area above the great room for an*

*expansion of the second floor of the residence will not be permitted without additional approval from the Waukesha County Board of Adjustment.*

The motion was seconded by Mr. Tarmann and carried unanimously.

The staff's recommendation was for approval, with the following conditions:

1. The footprint of the proposed residence and attached garage shall not exceed 1,800 sq. ft. in size and the total floor area ratio on the property shall not exceed 19.5%.
2. If any decks or patios are proposed, they shall not be covered and shall comply with all of the Ordinance requirements.
3. Prior to the issuance of a Zoning Permit, a complete set of house plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.
4. Prior to the issuance of a Zoning Permit, the Environmental Health Division must certify that the existing septic system is adequate for the proposed construction, or a sanitary permit for a new waste disposal system must be issued and a copy furnished to the Planning and Zoning Division staff.
5. If the dimensions of the proposed residence are altered, a revised stake-out survey showing the location of the proposed residence and attached garage, in conformance with the above conditions, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval prior to the issuance of a Zoning Permit.
6. In order to ensure the construction of a new residence does not result in adverse drainage onto adjacent properties, a detailed grading and drainage plan, showing existing and proposed grades, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a zoning permit. The intent is that the property be graded according to the approved plan, and also to provide that the drainage remain on the property or drain to the lake, and not to the neighboring properties or the road. The following information must also be submitted along with the grading and drainage plan: a timetable for completion, the source and type of fill, a complete vegetative plan including seeding mixtures and amount of topsoil and mulch, an erosion and sediment control plan, and the impact of any grading on stormwater and drainage. Furthermore, a soil boring, at the house site and to the proposed basement depth, must also be submitted. The property may not be suitable for a full basement.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The approval of the request for variances from the open space and floor area ratio requirements of the Ordinance, will eliminate the non-conforming residence from the property and will allow the petitioners to construct a new residence with attached garage on the property. The proposed

residence conforms to all of the locational requirements of the Ordinance. The size of the lot makes it impossible for any structure to be constructed on the property without an open space variance. A floor area ratio on the property of 19.5% will permit the residence to be approximately 2,386 sq. ft. in size. If the property were to be served by sewer then the residence would conform to the floor area ratio requirements. The petitioners will be able to use the property for a permitted use while maintaining a reasonably sized residence in keeping with the character of the neighborhood. The approval of this request, as conditioned, will not be contrary to the public interest. Therefore, the approval of this request will be in conformance with the purpose and intent of the Ordinance.

**ADJOURNMENT:**

Mr. Schmidt *I make a motion to adjourn this meeting at 8:30 p.m.*

The motion was seconded by Mr. Bartholomew and carried unanimously.

Respectfully submitted,

Peggy S. Pelikan  
Secretary, Board of Adjustment